

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

SAUL E. GREENHUT
Junior Party
(Patent No. 5,964,788),

v.

ALEXIS C. M. RENIRIE, and **VINCENT J. A. SCHOUTEN**
Senior Party
(Application No. 09/494,531).

Patent Interference No. 105,888 (JL)
(Technology Center 3700)

DECLARATION – Bd. R. 203(b)¹

Part A. Declaration of Interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

¹ “Bd. R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 **Part B. Judge managing the interference**

2 Administrative Patent Judge Jameson Lee has been designated to manage
3 the interference. Bd. R. 104(a).

4 **Part C. Standing order**

5 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
6 DECLARATION. The STANDING ORDER applies to this interference.

7 **Part D. Initial conference call**

8 A telephone conference call to discuss the interference is set for **2:00 p.m.**
9 **on June 12, 2012** (the Board will initiate the call).

10 No later than **four business days** prior to the conference call, each party
11 shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;
12 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13 A sample schedule for taking action during the motion phase appears as
14 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the
15 schedule prior to the conference call and to agree on dates for taking action. A
16 typical motion period lasts approximately eight (8) months. Counsel should be
17 prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named Inventors: Saul E. Greenhut, Aurora, Colorado

Involved Patent: 5,964,788, issued October 12, 1999, based on
Application 08/959,391, filed October 28, 1997

Title: Method and apparatus for controlling a pacemaker
using respiration

Assignee: Pacesetter, Inc.

Senior Party

Named Inventors: Alexis C. M. Renirie of Berg en Dal, and
Vincent J. A. Schouten of Cadier en Keer, all of
the Netherlands

Involved Application: 09/494,531, filed January 31, 2000

Title: System and method for respiration-modulated
pacing

Assignee: Medtronic, Inc.

The senior party is assigned exhibit numbers 1001-1999. The junior party is
assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior
party is responsible for initiating settlement discussions. SO ¶ 126.1.

1 **Part F. Count and claims of the parties**

2 Count 1

3 Claim 31 of Renirie's Application or Claim 10 Greenhut's Patent

4
5 The claims of the parties are:

6 Greenhut: 1-46

7 Renirie: 1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

8
9 The claims of the parties which correspond to Count 1 are:

10 Greenhut: 10, 12, 13, 36, 40, 41 and 42

11 Renirie: 1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

12
13 The claims of the parties which do not correspond to Count 1 are:

14 Greenhut: 1-9, 11, 14-35, 37-39, 43-46

15 Renirie: none

16
17 The parties are accorded the following benefit for Count 1:

18 Greenhut: none

19
20 Renirie: Application 08/937,443, filed September 25,
21 1997, now Patent 6,141,590, issued October
22 31, 2000

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1

see SO ¶ 106.1.1:

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V.

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Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Jameson Lee/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER (March 2011)
Copy of claims of Application 09/494,531
Copy of Patent 5,964,788

cc (via overnight delivery):

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